

Sep 28, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JEANNE S.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 4:17-CV-05144-SMJ

**ORDER RULING ON CROSS-
MOTIONS FOR SUMMARY
JUDGMENT**

Before the Court, without oral argument, are the parties' cross-motions for summary judgment, ECF Nos. 11 & 19. Plaintiff appeals the Administrative Law Judge's ("ALJ") denial of Supplemental Security Income. ECF No. 3. Plaintiff contends the ALJ erred by (1) improperly rejecting the opinions of Plaintiff's medical sources, (2) improperly assessing the credibility of Plaintiff's subjective complaints, and (3) finding Plaintiff can adjust to other work. The Commissioner of the Social Security Administration asks the Court to affirm the ALJ's decision.

After reviewing the record and relevant authority, the Court is fully informed. For the reasons set forth below, the Court reverses and remands the ALJ's decision, and therefore grants Plaintiff's motion and denies the Commissioner's motion.

I. BACKGROUND¹

2 Plaintiff filed an application for Supplemental Security Income on
3 December 11, 2013, alleging disability beginning on December 2, 2008. AR² 20.
4 The alleged disability onset date was later amended to December 11, 2013. AR
5 22. The claim was denied initially and upon reconsideration, and Plaintiff
6 requested a hearing. AR 20. A video hearing occurred on November 8, 2016. AR
7 20. Plaintiff appeared in Kennewick, Washington and ALJ M.J. Adams presided
8 over the hearing from Seattle, Washington. AR 20. The ALJ issued an
9 unfavorable decision. AR 17–37. Plaintiff filed a request for review, which the
10 Appeals Council denied. AR 1.

II. ALJ FINDINGS³

12 At step one, the ALJ found Plaintiff has not engaged in substantial gainful
13 activity since the alleged disability onset date of December 11, 2013. AR 22. At
14 step two, the ALJ found Plaintiff has the following severe impairments:
15 degenerative disc disease, bipolar disorder, anxiety related disorder, and

¹⁷ ¹ The facts are only briefly summarized. Detailed facts are contained in the administrative hearing transcript, the ALJ's decision, and the parties' briefs.

² For ease and consistency with the parties' briefs, the Court cites to the consecutive pagination of the administrative record, which appears in ECF Nos. 8 through 8-8.

19 ³ The applicable five-step disability determination process is set forth in the ALJ's
20 decision, AR 21-22, and the Court presumes the parties are well acquainted with
that standard. Accordingly, the Court does not restate the five-step process in this
Order.

1 personality disorder. AR 22. At step three, the ALJ found Plaintiff's impairments
2 do not meet or medically equal the severity of a listed impairment. AR 24. At step
3 four, the ALJ found Plaintiff has the residual functional capacity to perform light
4 work with certain limitations. AR 27. Further, at step four, the ALJ found Plaintiff
5 has no past relevant work. AR 36. Finally, at step five, the ALJ found jobs exist in
6 significant numbers in the national economy that Plaintiff can perform despite her
7 age, education, work experience, and residual functional capacity. AR 36.
8 Accordingly, the ALJ determined Plaintiff is not disabled as defined in the Social
9 Security Act. AR 37.

10 **III. STANDARD OF REVIEW**

11 The Court must uphold an ALJ's determination that a claimant is not
12 disabled if the ALJ applied the proper legal standards and there is substantial
13 evidence in the record as a whole to support the decision. *Molina v. Astrue*, 674
14 F.3d 1104, 1110 (9th Cir. 2012) (citing *Stone v. Heckler*, 761 F.2d 530, 531 (9th
15 Cir. 1985)). "Substantial evidence 'means such relevant evidence as a reasonable
16 mind might accept as adequate to support a conclusion.'" *Id.* (quoting *Valentine v.*
17 *Comm'r Soc. Sec. Admin.*, 574 F.3d 685, 690 (9th Cir. 2009)). This must be more
18 than a mere scintilla, but may be less than a preponderance. *Id.* at 1110–11. Even
19 where the evidence supports more than one rational interpretation, the Court must
20 uphold an ALJ's decision if it is supported by inferences reasonably drawn from

1 the record. *Id.*; *Allen v. Heckler*, 749 F.2d 577, 579 (9th Cir. 1984).

2 Yet, the Court “must consider the entire record as a whole, weighing both
3 the evidence that supports and the evidence that detracts from the Commissioner’s
4 conclusion, and may not affirm simply by isolating a specific quantum of
5 supporting evidence.” *Trevizo v. Berryhill*, 871 F.3d 664, 675 (9th Cir. 2017)
6 (quoting *Garrison v. Colvin*, 759 F.3d 995, 1009 (9th Cir. 2014)).

7 **IV. ANALYSIS**

8 **A. The ALJ erred by failing to give specific and legitimate reasons,
9 supported by substantial evidence, for rejecting the opinions of
Plaintiff’s medical sources.**

10 Plaintiff argues the ALJ improperly rejected the opinions of a treating
11 nurse, a clinical psychologist, a treating physician, and an examining physician.
12 “To reject [the] uncontradicted opinion of a treating or examining doctor, an ALJ
13 must state clear and convincing reasons that are supported by substantial
14 evidence.” *Revels v. Berryhill*, 874 F.3d 648, 654 (9th Cir. 2017) (alteration in
15 original) (quoting *Ryan v. Comm’r of Soc. Sec.*, 528 F.3d 1194, 1198 (9th Cir.
16 2008)). “If a treating or examining doctor’s opinion is contradicted by another
17 doctor’s opinion, an ALJ may only reject it by providing specific and legitimate
18 reasons that are supported by substantial evidence.” *Id.* (quoting *Ryan*, 528 F.3d at
19 1198).

20 An ALJ must also consider opinions from other medical providers, such as

1 nurse practitioners, who are not considered “acceptable medical sources.” *Id.* at
2 655; *see id.* at 665. “Lay testimony as to a claimant’s symptoms or how an
3 impairment affects the claimant’s ability to work is competent evidence that the
4 ALJ must take into account.” *Molina*, 674 F.3d at 1114. An ALJ may not
5 disregard such evidence without comment and may discount it only by giving
6 “reasons germane to each witness.” *Id.*; *accord Revels*, 874 F.3d at 655.

7 **1. Treating nurse Christina M. Chacon, FPMHNP-BC**

8 On November 4, 2016, Nurse Chacon conducted a mental assessment of
9 Plaintiff, opining she had marked limitations (defined as “[v]ery significant
10 interference with basic work-related activities, i.e., unable to perform the
11 described mental activity for more than 33% of the work day”) in the following
12 categories: “[t]he ability to remember locations and work-like procedures,” “[t]he
13 ability to understand and remember detailed instructions,” “[t]he ability to carry
14 out detailed instructions,” “[t]he ability to maintain attention and concentration for
15 extended periods,” “[t]he ability to complete normal workday and workweek
16 without interruptions from psychologically based symptoms and to perform at a
17 consistent pace without an unreasonable number and length of rest periods,” “[t]he
18 ability to get along with coworkers or peers without distracting them or exhibiting
19 behavioral extremes,” and “[t]he ability to respond appropriately to changes in the
20 work setting.” AR 1004–05.

1 Nurse Chacon also opined Plaintiff had marked “[d]ifficulties in
2 maintaining concentration, persistence or pace”; would likely be off-task over
3 30% of the time in a forty-hour workweek; and would likely miss four or more
4 days of work per month. AR 1006.

5 Plaintiff argues the ALJ erred by failing to address or even acknowledge
6 Nurse Chacon’s opinion. ECF No. 11 at 13–14. The Court agrees. “The ALJ is
7 responsible for studying the record and resolving any conflicts or ambiguities in
8 it.” *Diedrich v. Berryhill*, 874 F.3d 634, 638 (9th Cir. 2017). Failing to consider
9 Nurse Chacon’s opinion left a record with unresolved conflicts and ambiguities,
10 and devoid of any reason, germane to that witness, for rejecting her opinion. The
11 Court cannot conclude this error was harmless because a reasonable ALJ, after
12 fully crediting Nurse Chacon’s opinion on Plaintiff’s symptoms and how her
13 impairments affect her ability to work, could determine Plaintiff is disabled. *See*
14 *Marsh v. Colvin*, 792 F.3d 1170, 1173 (9th Cir. 2015). This error requires remand
15 for the ALJ to weigh the evidence in the first instance. *See id.*

16 **2. Clinical psychologist Tae-Im Moon, PhD**

17 In September 2013, Dr. Moon assessed Plaintiff a Global Assessment of
18 Functioning (“GAF”) score of 50. AR 405. In both September 2013 and August
19 2015, Dr. Moon observed Plaintiff had “very significant limitation[s]” in
20 communicating and performing effectively in a work setting, completing a normal

1 work day or week without interruption from psychological symptoms, and
2 maintaining appropriate behavior in a work setting. AR 405–06, 748. In each
3 meeting, Dr. Moon conducted a mental status examination of Plaintiff and made
4 similar observations. AR 406–07, 749–50. But in August 2015, Dr. Moon rated
5 Plaintiff below normal limits in thought process and content, concentration, and
6 insight and judgment, while rating her within normal limits for those categories in
7 September 2013. AR 406–07, 749–50.

8 Plaintiff argues the ALJ erred by failing to consider these portions of Dr.
9 Moon’s opinion and instead focusing solely on one numeric score—the GAF level
10 of 50. ECF No. 11 at 14–15. The Court agrees. Regardless of its source, every
11 opinion received from a licensed psychologist must be evaluated. *See* 20 C.F.R.
12 §§ 404.1527(c), .1502(a). Failing to consider the entire substance of Dr. Moon’s
13 opinion left a record with unresolved conflicts and ambiguities, and devoid of any
14 reason, let alone a specific and legitimate reason supported by substantial
15 evidence, for rejecting her opinion. The Court cannot conclude this error was
16 harmless because a reasonable ALJ, after fully crediting Dr. Moon’s opinion on
17 Plaintiff’s marked occupational limitations, could determine Plaintiff is disabled.
18 *See Marsh*, 792 F.3d at 1173. This error requires remand for the ALJ to weigh the
19 evidence in the first instance. *See id.*

20 Having already decided remand is necessary, the Court instructs the ALJ to

1 reevaluate Dr. Moon's assessed GAF score in light of the entire record. A GAF
2 score of 50 indicates Plaintiff suffers from serious symptoms or serious
3 impairment in occupational or other functioning. *See Morgan*, 169 F.3d at 598
4 n.1. But the ALJ rejected this GAF score for reasons that do not withstand
5 review.⁴

6 Ultimately, the ALJ rejected Dr. Moon's assessed GAF score because he
7 found (1) "Dr. Moon's opinion is not consistent with the documented appearance
8 and abilities of the claimant during the mental status examination," AR 34 (citing
9 AR 407), and (2) "new evidence . . . further show[s] that the claimant is less
10 limited than determined by . . . Dr. Moon," AR 35. The ALJ erred by "improperly
11 cherry-pick[ing]" from the record while ignoring the majority of Dr. Moon's
12 opinion and the entirety of Nurse Chacon's opinion. *Ghanim v. Colvin*, 763 F.3d
13 1154, 1164 (9th Cir. 2014); *see also Garrison*, 759 F.3d at 1018 n.23 ("The ALJ
14 was not permitted to 'cherry-pick' from [some] mixed results to support a denial
15 of benefits. . . . The very nature of bipolar disorder is that people with the disease

16
17 ⁴ Initially, the ALJ rejected this GAF score because it predates Plaintiff's alleged
18 disability onset date. AR 34. The Court has previously concluded "an ALJ may
19 not reject medical evidence solely because it predates the alleged date of the onset
20 of disability." *Tabitha J. v. Comm'r of Soc. Sec.*, No. 4:17-cv-05111-SMJ, slip op.
at 11 (E.D. Wash. July 10, 2018) (ECF No. 21). "[W]here, as here, the medical
opinion evidence is from shortly before the period of alleged disability, the ALJ
must provide a basis for rejecting the opinion." *Id.* Therefore, to withstand review,
the ALJ's other reasons for rejecting this GAF score must be specific and
legitimate, and supported by substantial evidence.

1 experience fluctuations in their symptoms . . .” (first omission in original)
2 (quoting *Scott v. Astrue*, 647 F.3d 734, 739–40 (7th Cir. 2011))).

3 Lastly, the ALJ appears to have rejected Dr. Moon’s assessed GAF score
4 based in part on policy concerns. *See* AR 34–35. That is not a specific and
5 legitimate reason supported by substantial evidence. Where, as here, a GAF score
6 comes from an acceptable medical source, it is medical opinion evidence the ALJ
7 should consider. *See Wellington v. Berryhill*, 878 F.3d 867, 871 n.1 (9th Cir.
8 2017).

9 **3. Treating physician James E. Leedy, MD**

10 Dr. Leedy conducted a physical function evaluation of Plaintiff in August
11 2015. AR 754–56. Dr. Leedy opined Plaintiff was severely limited in the basic
12 work activities of sitting, standing, walking, lifting, carrying, handling, pushing,
13 pulling, reaching, stooping, crouching, and communicating. AR 755. He specified
14 these limitations derived from her degenerative disc disease and herniated nucleus
15 pulposus pain from a motor vehicle accident, as well as her bipolar disorder and
16 anxiety disorder. AR 755. As a result of these severe limitations, Dr. Leedy
17 opined Plaintiff was “[u]nable to meet the demand of sedentary work.” AR 756.

18 Plaintiff argues the ALJ erred by failing to consider Dr. Leedy’s August
19 2015 opinion. ECF No. 11 at 15. The Court agrees. Regardless of its source, every
20 opinion received from a licensed physician must be evaluated. *See* 20 C.F.R.

1 §§ 404.1527(c), .1502(a).

2 The Commissioner argues this was not error, or this error was harmless,
3 because it is reasonable to infer the ALJ would have rejected Dr. Leedy's August
4 2015 opinion for the same reasons he rejected Dr. Leedy's October 2013 opinion.
5 ECF No. 19 at 13. The Court disagrees. In October 2013, Dr. Leedy diagnosed
6 Plaintiff with only back pain and fibromyalgia. AR 410. He observed she had
7 marked limitations, not severe ones. AR 410. Dr. Leedy gave no explanation for
8 this opinion, which he made early in his treating relationship with Plaintiff and
9 before her alleged disability onset date. AR 33, 410. None of these factors apply
10 to Dr. Leedy's August 2015 opinion. Whether the latter opinion contradicts other
11 evidence is for the ALJ to decide in the first instance. The Court notes, however,
12 that Plaintiff's condition appears to have fluctuated. The ALJ must consider the
13 whole record and may not simply cherry-pick the good moments while ignoring
14 the bad. *See Ghanim*, 763 F.3d at 1164; *Garrison*, 759 F.3d at 1018 n.23.

15 Thus, the Court concludes the ALJ's failure to consider Dr. Leedy's August
16 2015 opinion left a record with unresolved conflicts and ambiguities, and devoid
17 of any reason, let alone a specific and legitimate reason supported by substantial
18 evidence, for rejecting his opinion. The Court cannot conclude this error was
19 harmless because a reasonable ALJ, after fully crediting Dr. Leedy's August 2015
20 opinion on Plaintiff's severe occupational limitations, could determine Plaintiff is

1 disabled. *See Marsh*, 792 F.3d at 1173. This error requires remand for the ALJ to
2 weigh the evidence in the first instance. *See id.*

3 **4. Examining physician William R. Drenguis, MD**

4 Dr. Drenguis completed a physical evaluation of Plaintiff in April 2014. AR
5 432–36. He opined in part that she is limited to sitting, standing, or walking only
6 four hours in an eight-hour workday and must alternate positions every thirty to
7 forty-five minutes. AR 435. The ALJ gave little weight to this portion of Dr.
8 Drenguis’s opinion, partly because of Dr. Leedy’s September and October 2014
9 opinions that Plaintiff had become fully functional as her ability had improved
10 with narcotics. AR 33. But as noted above, the ALJ overlooked Dr. Leedy’s
11 August 2015 opinion, which suggested her condition subsequently deteriorated to
12 a severe state. AR 755–56. In August 2015, Dr. Leedy found Plaintiff had low
13 range of motion and could not sit or stand for long periods of time. AR 755.

14 Having already decided remand is necessary, the Court instructs the ALJ to
15 reevaluate Dr. Drenguis’s opinion in light of the entire record.

16 **B. The ALJ erred by failing to give specific, clear and convincing reasons
17 for rejecting Plaintiff’s complaints about the severity of her
constipation.**

18 Plaintiff argues the ALJ improperly assessed the credibility of her
19 subjective complaints. ECF No. 11 at 17–18. Where, as here, a claimant presents
20 objective medical evidence of an underlying impairment that could reasonably be

1 expected to produce the symptoms alleged, and there is no evidence of
2 malingering, “the ALJ must give specific, clear and convincing reasons in order to
3 reject the claimant’s testimony about the severity of the symptoms.”” *Diedrich*,
4 874 F.3d at 641 (quoting *Molina*, 674 F.3d at 1112). A finding that a claimant’s
5 testimony is not credible must be sufficiently specific to allow the Court to
6 conclude the ALJ rejected it on permissible grounds and did not discredit it
7 arbitrarily. *Brown-Hunter v. Colvin*, 806 F.3d 487, 493 (9th Cir. 2015) (quoting
8 *Bunnell v. Sullivan*, 947 F.2d 341, 345–46 (9th Cir. 1991)). “General findings are
9 insufficient; rather, the ALJ must identify what testimony is not credible and what
10 evidence undermines the claimant’s complaints.” *Id.* (quoting *Reddick v. Chater*,
11 157 F.3d 715, 722 (9th Cir. 1998)).

12 On September 20, 2013, Dr. Leedy prescribed Plaintiff MiraLax because
13 she was “having a little diverse effects in that of constipation.” AR 449–50, 494.
14 As of April 28, 2014, MiraLax was “work[ing] well” in relieving Plaintiff’s
15 constipation—the only adverse side effect of her narcotic medication at the time.
16 AR 473. As of June 11, 2014, Plaintiff was still taking medication for
17 constipation. AR 439.

18 Plaintiff’s subsequent medical records show she was “[n]egative for . . .
19 constipation” on July 18, 2014, September 16, 2014, February 3, 2015, July 30,
20 2015, July 31, 2015, and November 5, 2015. AR 479, 483, 519, 521, 523, 529,

1 532, 772, 775, 796, 816, 957.

2 But then, on September 9, 2016, Benjamin Nettleton, DO, diagnosed
3 Plaintiff with “[c]hronic constipation,” prescribed her docusate sodium, and
4 referred her to a gastroenterologist. AR 985–86. Plaintiff reported she was
5 “having pain in [her] abdomen with swelling.” AR 984. Dr. Nettleton recorded
6 this problem was “chronic” and included “constipation problems such as a small
7 child.” AR 984. He noted she was “polyglycolic but ha[d] to partially disimpact
8 herself frequently.” AR 984. Plaintiff had “noticed some lumps near her anus” and
9 “[o]ccasionally ha[d] drops of blood from her stool.” AR 984. Dr. Nettleton noted
10 “[s]ymptoms worsened after a reconstruction after a complication from a [prior]
11 procedure.” AR 984. Plaintiff’s medical history was “significant for irritable
12 bowel syndrome[and] recon[s]tructive surgery on her abdomen.” AR 984.

13 On September 27, 2016, Plaintiff followed up with Nurse Chacon, reporting
14 she was “having ongoing medical issues related to pain[and] constipation.” AR
15 988. And on September 29, 2016, Linda L. Walby, MD, noted no change but that
16 Plaintiff had an appointment with a gastrointestinal clinician. AR 998–99, 1001.

17 At the hearing on November 8, 2016, Plaintiff testified she has experienced
18 constipation following her 2012 hysterectomy. AR 74, 82–85. Plaintiff described
19 this as feeling the need to have a bowel movement but being unable to do so
20 naturally. AR 83. When this happens, Plaintiff said she experiences spasms and

1 sometimes sweating and nausea. AR 74, 83–85. Plaintiff testified her physician
2 instructed her on how to assist herself in producing a bowel movement. AR 83–
3 84. Plaintiff said she sits on the toilet with her feet on a step stool and her knees
4 elevated, leans to her left, and, with gloves, digitally stimulates her rectal muscles
5 because they will not work on their own. AR 83–85. Plaintiff testified this process
6 takes about an hour and a half, and she must repeat this process about two to three
7 times per week. AR 84–85. Plaintiff said this is not something she can schedule
8 but, rather, something that happens in its own time. AR 84–85.

9 Plaintiff argues the ALJ did not give specific, clear and convincing reasons
10 for rejecting her complaints about the severity of her constipation. ECF No. 11 at
11 18. The Court agrees. While the ALJ devoted seven single-spaced pages to
12 analyzing many of Plaintiff's complaints, he did not address her constipation. *See*
13 AR 25–32. On this subject, the ALJ made only a general finding without
14 mentioning even a scintilla of evidence relating to Plaintiff's constipation.⁵ This

15
16⁵ The relevant portions of the ALJ's decision read,
17

18 I have considered all symptoms and the extent to which these
19 symptoms can reasonably be accepted as consistent with the objective
20 medical evidence and other evidence

After careful consideration of the evidence, I find that the claimant's
medically determinable impairments could reasonably be expected to
cause some of the alleged symptoms. However, her statements
concerning the intensity, persistence, and limiting effects of these
symptoms are not consistent with the evidence

1 was harmful error requiring remand for the ALJ to weigh the evidence in the first
2 instance. *See Brown-Hunter*, 806 F.3d at 494–95.

3 In sum, the ALJ erred by failing to give specific, clear and convincing
4 reasons for rejecting Plaintiff’s complaints about the severity of her constipation.

5 **C. The ALJ must reevaluate whether jobs exist in significant numbers in
the national economy that Plaintiff can perform despite her limitations.**

6 At step five, the Commissioner has the burden to “identify specific jobs
7 existing in substantial numbers in the national economy that [a] claimant can
8 perform despite [his or her] identified limitations.” *Zavalin v. Colvin*, 778 F.3d
9 842, 845 (9th Cir. 2015) (first alteration in original) (quoting *Johnson v. Shalala*,
10 60 F.3d 1428, 1432 (9th Cir. 1995)). “Hypothetical questions posed to a
11 [vocational expert] must ‘set out *all* the limitations and restrictions of the
12 particular claimant . . .’” *Bray v. Comm’r of Soc. Sec. Admin.*, 554 F.3d 1219,
13 1228 (9th Cir. 2009) (omission in original) (quoting *Russell v. Sullivan*, 930 F.2d
14 1443, 1445 (9th Cir. 1991)). “If an ALJ’s hypothetical does not reflect all of the
15 claimant’s limitations, then ‘the expert’s testimony has no evidentiary value to
16 support a finding that the claimant can perform jobs in the national economy.’” *Id.*
17 (quoting *DeLorme v. Sullivan*, 924 F.2d 841, 850 (9th Cir. 1991)).

18 Because the ALJ committed the errors described above, the hypothetical
19

1 questions posed to the vocational expert may have been incomplete by excluding
2 some of Plaintiff's limitations. Therefore, on remand, the ALJ must reevaluate, in
3 light of this opinion, whether jobs exist in significant numbers in the national
4 economy that Plaintiff can perform despite her limitations.

5 **D. The ALJ's errors were harmful and require correction on remand.**

6 The Court cannot conclude the ALJ's errors were harmless. Accepting the
7 disputed evidence may produce a more restrictive residual functional capacity,
8 which would likely alter the ALJ's finding that jobs exist in significant numbers in
9 the national economy that Plaintiff can perform despite her limitations. Because
10 the record has not been fully developed, outstanding issues must be resolved
11 before a disability determination can be made, and further administrative
12 proceedings would be useful to remedy the identified defects, the Court remands
13 this case to the ALJ. *See Leon v. Berryhill*, 880 F.3d 1041, 1045–47 (9th Cir.
14 2017).

15 Accordingly, **IT IS HEREBY ORDERED:**

16 1. Plaintiff's Motion for Summary Judgment, **ECF No. 11**, is
17 **GRANTED**.

18 2. The Commissioner's Motion for Summary Judgment, **ECF No. 19**, is
19 **DENIED**.

20 3. The Court enters **JUDGMENT** in favor of Plaintiff **REVERSING**

1 and **REMANDING** the matter to the Commissioner of the Social
2 Security Administration for further proceedings consistent with this
3 Order pursuant to sentence four of 42 U.S.C. § 405(g).

4 4. All pending motions are **DENIED AS MOOT**.
5 5. All hearings and other deadlines are **STRICKEN**.
6 6. The Clerk's Office is directed to **CLOSE** this file.

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
8 and provide copies to all counsel.

9 **DATED** this 28th day of September 2018.

10 
11

SALVADOR MENDOZA, JR.
United States District Judge
12
13
14
15
16
17
18
19
20